

DRAFT

**TOWN OF GILBERT
PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS
50 E. CIVIC CENTER DRIVE
GILBERT, AZ
July 12, 2017**

COMMISSION PRESENT: Chairman Kristofer Sippel
Vice Chairman Brian Andersen
Commissioner Carl Bloomfield
Commissioner David Cavenee
Commissioner Greg Froehlich
Commissioner Brian Johns
Commissioner Joshua Oehler
Alternate Commissioner Seth Banda (in attendance, but
did not participate in discussion on the dais)

COMMISSION ABSENT: Alternate Commissioner Mary Harris

STAFF PRESENT: Bob Caravona, Senior Planner
Nichole McCarty, Planner II
Gilbert Olgin, Planner II
Amy Temes, Senior Planner
Nathan Williams, Senior Planner
Principal Planner Catherine Lorbeer
Planning Manager Linda Edwards

ALSO PRESENT: Attorney Nancy Davidson
Recorder Debbie Frazey

PLANNER	CASE	PAGE	VOTE
Amy Temes	DR16-48	6	Continued
Nathan Williams	DR17-1007	9	Approved
Nathan Williams	DR17-1027	6	Approved
Gilbert Olgin	DR17-1037	13	Approved
Gilbert Olgin	DR17-1039	4	Approved
Bob Caravona	DR17-1040	4	Approved
Gilbert Olgin	DR17-1051 (DR97-41-A)	6	Approved
Nathan Williams	DR16-55	16	Approved

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CALL TO ORDER REGULAR MEETING

Chair Sippel called the Regular Meeting of the Planning Commission to order at 6:12 p.m.

ROLL CALL

Recording Secretary Debbie Frazey called roll and a quorum was determined to be present.

8. COMMUNICATION FROM CITIZENS.

At this time, members of the public may comment on matters within the jurisdiction of the Town, but not on the agenda. The Commission/Board response is limited to responding to criticism, asking staff to review a matter commented upon, or asking that a matter be put on a future agenda.

Chair Sippel asked if there were any members of the public who wished to speak on something that was not on the agenda. Seeing none, Chair Sippel moved on to the next item on the agenda.

7. APPROVAL OF AGENDA

Chair Sippel realized that he had skipped Agenda Item 7 so he called for a motion to approve tonight's agenda. Chair Sippel announced that they would be moving Item 10, DR17-1007 and Item 12, DR17-1037 from the Public Hearing (Consent) Agenda and moving them to the Public Hearing (Non-Consent) Agenda. Vice Chair Brian Andersen made a **MOTION** to approve the Agenda as modified; seconded by Carl Bloomfield; and passed unanimously.

Motion passed 7-0**PUBLIC HEARING (CONSENT)**

All items listed below are considered consent calendar items and may be approved by a single motion unless removed at the request of the Commission/Board for further discussion/action. Other items on the agenda may be added to the consent calendar and approved under a single motion.

Chair Sippel read the Public Hearing (Consent) Agenda (listed with Staff Recommendations below) as follows: Item 9, DR16-48, Shops at Circle G Corporate Park, has asked for a continuance to the August 2 meeting. Item 11, DR17-1027, Warner Greenfield Square (Chair Sippel noted that some additional Staff recommendations would be added to this before the Item is approved); Item 13, DR17-1039, MR Tanner Construction Yard; Item 14, DR17-1040, Central Arizona Supply/Potato Barn; and Item 15, DR17-1051, Light Band for Burger King Remodel.

After Chair Sippel read the Public Hearing (Consent) Agenda, Commissioner Greg Froehlich declared a Conflict of Interest on Item 13, DR17-1039 and Item 14, DR17-1040. Due to this Conflict of Interest, Chair Sippel said they would separate out Items 13 and 14 for separate motions.

13. DR17-1039, MR TANNER CONSTRUCTION YARD: SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, COLORS AND MATERIALS FOR APPROXIMATELY 1.4 ACRES, LOCATED AT 1303 WEST SAN PEDRO STREET AND ZONED LIGHT INDUSTRIAL (LI) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY; SUBJECT TO CONDITIONS.

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-1039, MR Tanner Construction Yard: site plan, landscape, grading and drainage, colors and materials for approximately 1.4 acres, located at 1303 West San Pedro Street and zoned Light Industrial (LI) with a Planned Area Development (PAD) overlay; subject to conditions.

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.
2. Interior landscaping requirements for the DR17-1039, MR Tanner Construction Yard will be required at the time of vertical development (No building construction/development with this application).
3. Prior to submittal of construction drawings, the applicant shall submit exhibits for staff approval of the Staff will approve final wall design prior to construction documents to ensure compatibility with surrounding businesses.
4. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.

14. DR17-1040, CENTRAL ARIZONA SUPPLY / POTATO BARN: SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, ELEVATIONS, FLOOR PLANS, LIGHTING, COLORS AND MATERIALS FOR APPROXIMATELY 4.93 ACRES, GENERALLY LOCATED WEST OF THE SOUTHWEST OF CORNER OF S. RECKER ROAD AND E. WILLIAMS ROAD AND ZONED GENERAL COMMERCIAL (GC).

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-1040, Central Arizona Supply / Potato Barn: site plan, landscape, grading and drainage, elevations, floor plans, lighting, colors and materials

for approximately 4.93 acres, generally located west of the southwest of corner of S. Recker Road and E. Williams Road and zoned General Commercial (GC), subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.
2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. Administrative Design Review approval is required prior to submitting for sign permits.
4. Approval is contingent upon an approved Administrative Use Permit (AUP17-1023) to reduce parking requirements for the Arizona Central Supply business.
5. As applications for development, redevelopment or change of use occurs for the 4.93 acre site, the proposals must be in compliance with parking requirements and standards and the approved Administrative Use Permit, as may be amended.
6. If the 4.93 acre site is subdivided, a shared vehicular, pedestrian and parking easement will be required for the Final Plat.
7. Prior to issuance of a building permit, a recorded on-site and off-site easement to the east (commonly to as the Cooley Property) is required for the loop water line.
8. The western ingress/egress drive and associated drive aisle leading to the eastern ingress/egress drive shall be a paved surface and installed with Phase 1, unless otherwise approved by the Director per LDC Section 4.209.C. The adjacent parking area to the east-west drive aisle shall be reviewed for paving installation as subsequent development or change of use occurs with Buildings in Phase 1a or 2; or Buildings 1, 2, 3 or 4.

Chair Sippel then asked if there were any members of the public who wished to speak on any of the Public Hearing (Consent) Agenda items he had just read. Seeing none, he closed the Public Hearing and called for a motion to approve Item 13, DR17-1039 and Item 14, DR17-1040. Vice Chair Andersen made a **MOTION** to approve Item 13, DR17-1039, MR Tanner Construction Yard and Item 14, DR17-1040, Central Arizona Supply/Potato Barn, subject to Staff Recommendations; seconded by David Cavenee; motion passed unanimously.

Motion carried 6-0 with Commissioner Greg Froehlich abstaining.

Chair Sippel then called for a motion to approve the remaining Public Hearing (Consent) Agenda items as noted below:

**11. DR17-1027, PLANET FITNESS AT WARNER GREENFIELD SQUARE:
SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, ELEVATIONS,**

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FLOOR PLANS, LIGHTING, COLORS AND MATERIALS FOR APPROXIMATELY 8 ACRES, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF GREENFIELD ROAD AND WARNER ROAD AND ZONED COMMUNITY COMMERCIAL (CC) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-1027, Planet Fitness: site plan, landscape, grading and drainage, elevations, floor plans, lighting, colors and materials for approximately 8 acres, for a private fitness center within the Warner Greenfield Square shopping center, located at the southwest corner of Greenfield Road and Warner Road, in the Community Commercial (CC) zoning district, subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.
2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. Administrative Design Review approval is required prior to submitting for sign permits.
4. Approval is contingent upon approval of deferred parking with case UP17-1006.

Planner Nathan Williams read in the following additional condition of approval:

5. THE PROPERTY OWNER SHALL PROVIDE AN ADDITIONAL COURSE OF CMU BLOCK TO THE EXISTING CMU SOLID SCREEN WALL ON THE SOUTHEASTERNMOST PARCEL ADJACENT TO THE WARNER GREENFIELD SQUARE SHOPPING CENTER IF STRUCTURALLY FEASIBLE. IF AN ADDITIONAL COURSE OF CMU BLOCK IS NOT STRUCTURALLY FEASIBLE TO CONSTRUCT, THE ADDITION OF MID-HEIGHT LANDSCAPING SHALL BE PROVIDED ALONG THE SOUTHEASTERNMOST PROPERTY ADJACENT TO THE WARNER GREENFIELD SQUARE SHOPPING CENTER AT TIME OF CONSTRUCTION DRAWINGS.

15. DR17-1051, LIGHT BAND FOR BURGER KING RESTAURANT REMODEL, LOCATED AT 695 SOUTH VAL VISTA DRIVE AND ZONED GENERAL COMMERCIAL (GC).

STAFF RECOMMENDATION

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Approve the Findings of Fact and approve DR17-1051, Light Band for Burger King Restaurant Remodel, located at 695 South Val Vista Drive and zoned General Commercial (GC), subject to condition:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public meeting.

Vice Chair Brian Andersen made a **MOTION** to approve Item 11, DR17-1027, Planet Fitness at Warner Greenfield Square and Item 15, DR17-1051, Light Band for Burger King Restaurant; seconded by Carl Bloomfield; motion passed unanimously.

Motion passed 7-0

Chair Sippel then made a **MOTION** to continue Item 9, DR16-48, Shops at Circle G Corporate Park, to the August 2, 2017 meeting; seconded by Vice Chair Brian Andersen; motion passed unanimously.

Motion passed 7-0

PUBLIC HEARING (NON-CONSENT)

Non-Consent Public Hearing items will be heard at an individual public hearing and will be acted upon by the Commission/Board by a separate motion. During the Public Hearings, anyone wishing to comment in support of or in opposition to a Public Hearing item may do so. If you wish to comment on a Public Hearing Item, you must fill out a public comment form, indicating the item number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the Commission/Board.

10. DR17-1007, CALIBER CLUB: SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, ELEVATIONS, FLOOR PLANS, LIGHTING, COLORS AND MATERIALS FOR APPROXIMATELY 2.13 ACRES, GENERALLY LOCATED AT THE SOUTHEAST OF THE SOUTHEAST CORNER OF SANTAN VILLAGE PARKWAY AND RAY ROAD AND ZONED REGIONAL COMMERCIAL (RC) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-1007: Caliber Club: site plan, landscape, grading and drainage, elevations, floor plans, lighting, colors and materials for approximately 2.13 acres, generally located at the southeast corner of Santan Village Parkway and Ray Road and zoned Regional Commercial (RC) with a Planned Area Development (PAD) overlay, subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.

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2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. This project is part of the SanTan Village Marketplace Master Sign Program (DR05-139). Administrative approval required prior sign permits for new monument signs and wall signs.

Nathan Williams began his presentation on Item 10, DR17-1007, Caliber Club. He said this was a Design Review application and he informed the Commission that they had last seen this project back in April during Study Session. He shared that the site was just over 2 acres and was located in the Santan Village/Crossroads Planned Area Development (PAD). He shared an aerial view of the site, noting its location south of Top Golf and north of Main Event. He reminded the Commission that the site is zoned Regional Commercial (RC) and the use is Entertainment and Recreation, Indoor. He indicated that there had been a number of comments during Study Session and the applicant had made many changes to address those comments since the Study Session. Planner Williams said the design now called for a 2-story building (previously it was designed as a 1-story building). He said this helps to decrease the building footprint. He stated that the Caliber Club will have 25 shooting bays and a VIP Lounge. He noted that the VIP Lounge would now be located on the rooftop deck. He said that the applicant reduced the building footprint because a lot of the Commission's comments related to parking, access, and circulation around the building. He shared the previous design from the April Study Session, noting that one of the comments was that the parking dead-ended on both sides of the building. He also shared the previous elevations, noting that originally they were almost all tilt-up concrete panel with some stone veneer. After hearing feedback from the Study Session that the Commission wasn't very supportive of the design, the applicant made some changes in an effort to address the Commission's concerns. Planner Williams pointed out that these changes have allowed for increased parking and enabled better circulation around the building for Fire and for customers. He also mentioned that the applicant had added the rooftop deck for VIP customers. He said the applicant had also changed the colors and materials, so it isn't all tilt-up concrete panels now. He said the applicant also reduced some of the outdoor patio on the ground floor. He indicated how circulation would work around the entire building, specifically noting that these changes also increased the number of parking spaces offered. He said the applicant is going through an Administrative Use Permit process for deferred parking. Planner Williams said that the strict application of the Code would require approximately 136 parking spaces and the applicant is only offering 95. He indicated that Staff is in support of the AUP, as the applicant has made a good case for their request to reduce the number of parking spaces. He said the original design only allowed for 83 spaces, so the new design has increased their parking by 12 spaces.

Nathan Williams also noted that one of the previous concerns was the lack of pedestrian connectivity from other sites. He said the new design provides for pedestrian connectivity. He shared the site plan, indicating the location of a sidewalk, as well as a connection through an existing sidewalk and walkway with Top Golf. He shared renderings of the design, calling attention to the rooftop deck. Planner Williams pointed out the area where the shooting ranges would be located. He said that the applicant had worked with Staff to come up with a better

design and he indicated that Staff was pleased with the new design. He also shared the color palette and the building elevations.

Chair Sippel thanked Planner Williams for his presentation and called for questions or comments from the Planning Commission. Seeing none, he asked if the applicant wished to speak. The applicant did not have wish to make an additional presentation. Chair Sippel then asked if there were any members of the public that wished to speak on this item. He informed the audience that if they wished to speak on an item, they should fill out a public comment card and bring it up to the Staff table. Seeing no members of the public who wished to speak, Chair Sippel called for comments or questions from the Commission.

Comment: David Cavenee said he appreciated the new circulation and thought it made the whole site feel so much better. He expressed his appreciation that the applicant had made the changes. He also noted the quality of the renderings.

Question: David Cavenee said he was curious what the rationale was behind the applicant's request to reduce the total number of parking spaces required by Code.

Answer: Nathan Williams said that the Crossroads PAD is written with a general ratio of 1 space per 200 square feet. He said with the many different uses and the fact that many of those uses cross over, Staff felt that there would be sufficient parking in the immediate area.

Comment: David Cavenee said that he was also pleased with the pedestrian connectivity throughout the site, especially given the fact that there are multiple entertainment venues that may have some cross usage.

Question: Joshua Oehler asked if they were interconnecting the sites to get the pedestrian walkway.

Answer: Nathan Williams indicated where the drive aisle would come in and where the sidewalk would run along and connect to Top Golf.

Question: Joshua Oehler asked if there was also pedestrian connectivity on the Top Golf side.

Answer: Nathan Williams answered affirmatively. He indicated on the site map where the sidewalk would be located.

Question: Joshua Oehler said he thinks the renderings look great and he asked if the colors showing in the renderings would be the ones used. He specifically asked about the red because he said he didn't see as much of the red in the building elevations, but only on the renderings.

Answer: Nathan Williams said that he believed that most of the red would be used on the metal accents. He then brought up the elevations and pointed out where the applicant would be using the red color.

Comment: Vice Chair Andersen thanked the applicant for doing a total 180 on the design of this building. He said he feels that they have done an awesome job in improving the design from when it was presented at Study Session. He said this design is so much nicer than the original

design. He said he thought the applicant would do very well with this building and he thinks it will attract a lot of people to it.

Comment: Chair Sippel said that he also wanted to thank the applicant for the improved design and he thanked the applicant for working with Staff to better design the site.

Chair Sippel closed the Public Hearing and called for a motion. Commissioner David Cavenue made a **MOTION** to approve the Findings of Fact and approve Item 10, DR17-1007, Caliber Club, subject to Staff recommendations; seconded by Carl Bloomfield; motion passed unanimously.

Motion passed 7-0

12. DR17-1037, AMERICAN GROVES SENIOR LIVING: SITE PLAN, LANDSCAPING, GRADING AND DRAINAGE, BUILDING ELEVATIONS, COLORS AND MATERIALS, AND LIGHTING FOR APPROXIMATELY 6.48 ACRES, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF ELLIOT ROAD AND 29TH PLACE AND ZONED SINGLE FAMILY-35 (SF-35).

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-01037, American Groves Senior Living: Site plan, landscaping, grading and drainage, building elevations, colors and materials, and lighting for approximately 6.48 acres, generally located at the southeast corner of Elliot Road and 29th Place and zoned Single Family-35 (SF-35), subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.
2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. Administrative Design Review approval is required prior to submitting for sign permits.
4. Property Owner/Developer agrees to tie-in the sidewalk into the southern end of 29th Place and on the south side or north side of the 29th Place at the second point of access.

Planner Gilbert Olgin began his presentation on Item 12, DR17-1037, American Groves Senior Living. Planner Olgin shared the vicinity map, indicating the location of the property at the southeast corner of Elliot Road and 29th Place. Planner Olgin noted that the site is located within the Ka-Lo Park subdivision. Additionally, he indicated that there are residential homes to the north and Gilbert High School is to the east of the site. He shared the two points of access, noting that the major point of access is off of Elliot Road and the second access point is off of

29th Place. He said that the property does not have full circulation, but it will have the required access for fire and emergency access. He shared the location of the trash enclosures on the side nearest the high school. He said the majority of the project is 2-story, but indicated that there are some 1-story buildings on the back side. He said this was done at the request of the public because they had indicated their concern at previous meetings of the Planning Commission. He said after listening to all of the public comments, the applicant tried to accommodate as many of the requests as possible. Planner Olgin showed the location of the garage units. He shared the elevations, noting that no changes had been made to the elevations since the Commission had last seen them at Study Session. He pointed out that the applicant had upgraded the type of asphalt shingles that would be used as a result of comments made by the Commission. Planner Olgin pointed out that the asphalt shingles will now have more of a commercial grade look. He told the Commission that he had provided an image of the upgraded shingles in their packets. He shared that the particular architecture had been chosen to help the project blend into the neighboring community of 1-acre lots. He shared some of the changes made to the landscape plan, noting that the applicant took some of the comments from the public about noise and upgraded their plant palette with lots of trees of different sizes to alleviate against potential noise that might be generated. Planner Olgin said that Staff recommends approval of the project. He called attention to the fact that Staff had added some additional conditions that would need to be met. He specifically mentioned that Staff had requested that they tie-in the sidewalk. He said there would be a sidewalk that would exist off of 29th Place and they requested that it not dead-end, but tie-in to the southern portion of the project. He said they also had requested that at the second point of access on 29th Place, that the applicant tie-in one of the sidewalks. He said that the applicant was in agreement with the proposed conditions. Planner Olgin finished his presentation.

Chair Sippel asked for comments or questions from the Planning Commission.

Question: David Cavenee asked for clarification on the sidewalk tie-in Planner Olgin had just mentioned. He said he didn't understand the request and wasn't sure why they would need to do that.

Answer: Planner Olgin explained that Staff had asked for a sidewalk to be placed on 29th Place to help anyone that might be walking on the site that wishes to get out of the way of vehicles. He said that initially they were considering a dirt path, but it was determined that a sidewalk complete with curb and gutter, would be preferable. He indicated that the sidewalk would go from Elliot Road all the way down to 29th Place. Planner Olgin said that Staff had asked that instead of dead-ending the sidewalk, they would tie it in so that the sidewalk didn't just stop. He said they also asked them to tie the sidewalk into the site.

Comment: David Cavenee thanked Gilbert Olgin for helping him understand what Staff was asking. He sought to clarify that Staff had asked them to bring the sidewalk along the 29th Place frontage, have the sidewalk turn up into the building at the main drive aisle, and then continue down to the southwest corner of the property.

Response: Gilbert Olgin showed a site map and indicated where the sidewalk would be located.

Question: David Cavenee asked if there was currently any sidewalk going into the existing neighborhood.

Answer: Gilbert Olgin said there was not an existing sidewalk.

Comment: David Cavenee said he understood that they would be doing this so that instead of letting the sidewalk dead-end there, they would bring it back into the site.

Response: Gilbert Olgin agreed and noted that they would also be tying in a sidewalk at the second point of entry.

Comment: David Cavenee said he thought that was a good idea. He said that in the past, he has had a parent in a facility like this and they often took the parent out on walks around the facility. He could see that it would be helpful to have a sidewalk.

Chair Sippel reminded the audience that this was a Public Hearing and invited the applicant forward to add any additional information. The applicant did not wish to do so.

Chair Sippel indicated that he had received one public comment card. He then invited Jenna Schwinke to the podium.

Jenna Schwinke, of Gilbert, Arizona, introduced herself. She said that she lives immediately across from the proposed American Groves site. She stated that she had a few questions she would like answered. Her first question was about the driveway that opens to 29th Place. She shared that this driveway would be directly in front of her home. She said they moved to the neighborhood because it was a quiet and peaceful neighborhood and was big and private for her young children, one of which has special needs. She said she is concerned about the traffic coming into their neighborhood. She said that the facility itself looks very beautiful and appears to have great vegetation, but because she is one of the three or four properties that will be directly impacted by this project, she and her husband are concerned about the potential for decreased property values, as well as safety for their children, privacy due to the facility workers and visitors that will be coming to the property and the potential noise that may be created. She asked what the applicant has planned in terms of her specific concerns and their impact on the three direct neighbors that are most impacted. She said if she could get some more specific information, she would be more inclined to be in favor of the project.

Chair Sippel then invited David Miller to the podium to speak. Chair Sippel indicated that Mr. Miller was opposed to the item.

David Miller, of Gilbert, introduced himself. He said he is a Gilbert resident that lives down the street from this project. He said he has had many conversations with the Town of Gilbert and the developer regarding this project and finds it troubling that this particular developer is painting a picture that they are a benevolent, virtuous developer, that is doing something really good for the Town of Gilbert. He stated that the developer is trying to paint a picture of the neighborhood as cranky people that want to stand in the way of progress, but he pointed out that it is the residents that have to live in the area. He mentioned the neighbor that had just spoken and her concern regarding her special needs child. He said that the Principal of the elementary school around the

corner from this project has expressed her own concerns about the safety of this sort of development in a community such as this one. He also pointed out that the neighborhood in question has an HOA and the Town's pushing forward of this project, bears very bad precedent for the Town of Gilbert itself. He said there is a deed restriction in place. He said the developer bought this property knowing about the deed restriction and that an HOA exists for the neighborhood. He mentioned that there are requirements that the developer bring this to the neighborhood, not just to the Town. He said that the developer has staunchly refused and has not formally submitted anything to the neighborhood committee. He said that this will likely result in litigation. Mr. Miller said that the reason there are so few neighbors in attendance at tonight's meeting is that they believe attending a meeting is a farce and a waste of time. He said they believe it is better to pool their resources and file a lawsuit against both the Town and the developer. He said that the developer has refused outright to comply with the deed restrictions of which he has been properly noticed and which have been discussed in this chamber. He accused the Town of participating in a taking in their attempt to push forward with this. He said the Town is impinging upon the citizen's rights to have the kind of neighborhood that they want. He said he realizes this seems very abstract, because these deed restrictions were set in place and recorded nearly 40 years ago, but these deed restrictions and the laws that create them, form the very basis of our laws and of our rights to own property within the State of Arizona. He said for the Town to turn a blind eye to these valid deed restrictions is very concerning to him as a citizen, as a taxpayer, as an attorney, and as a resident. He said he has brought this up before the Town Council and at that time, legal counsel informed him that these type of deed restrictions are really not that enforceable. He said this is incorrect and stated that the case law on this subject is 100 percent on point. He said that if the developer pours the foundation and builds a building and is sued, they can force him to remove that building. He said this is beyond question. He said if the developer can then somehow convert the project in a way that it would be in conformity with the deed restrictions, he can imagine that the courts would probably allow him to maintain those buildings. However, he stated that a building of this size flies in the face of the deed restrictions, which are for single family residences. He finished his comments, stating that he had voiced every bit of vocal opposition that he could. He thanked the Commission for the work that they have put in on this effort. He said he would appreciate the Commission spending a little bit of time, not just thinking about the beauty of the building and the lushness of the proposed vegetation, but also paying attention to the rule of law. He said that the dais is labeled with the words "We The People" and that it really is that. He stated that it is people that respect laws and respect the covenants that they have made. He said this developer is trying to get everyone on his side to collectively ignore the covenants that he made when he purchased the property.

Chair Sippel thanked Mr. Miller for his comments and asked if there was anyone else in attendance that would like to speak on this item.

Nicholas Murray, of Gilbert, introduced himself. He said that he lives on 29th Place and is opposed to the project. He acknowledged that the applicant had been very nice in all of their meetings with the residents, even though there has been some disagreement. He said he had a specific question regarding the sidewalk. He said that most of the residences on 29th have pastures for their horses. He wondered if the sidewalk that was being put in would be brought up

to the road or if it would be a distance off the road, so that horses can get around the way they have been or he asked if they would have to cross over.

Chair Sippel thanked Mr. Murray for his comments and asked if the applicant would come up and address the concerns that had been raised.

Ben Searle, of Gilbert, introduced himself. He said that he has had the opportunity to get to know quite a few of the neighbors through this process and he said he has done his best to hear their concerns and try to understand them. He then attempted to answer the concerns about safety for those homes that are located right across the street from the project. He said there had been quite a lot of dialogue on this issue. He said originally there were actually two accesses onto 29th Place and they reduced the access points to one, noting that it is also a reduced size from the original design. He said they also are planning to put in a “no left turn” on 29th Place in an attempt to try and channel the traffic to Elliot instead of 29th Place. He said there are some fire access/fire safety issues that they had to include, so they were required to have some sort of access on 29th Place, but he said they tried to give their best effort toward reducing the potential traffic on 29th. Additionally, Mr. Searle said they are planning to widen the road to the west of the property and they will be adding a sidewalk. He said that the road will go right up to the curb. He said they liked the idea of the equestrian trail, but in the end, it wasn’t really approvable by the Town. Lastly, he said they have looked into the legalities regarding the deed restrictions. He also stated that they are familiar with the deed restrictions. He said it clearly states in the deed restrictions, that if there is a discrepancy between state, county and city regulations and an HOA, that the HOA will not prevail, but the state, county or city would prevail, in this case the Town of Gilbert. He said they did not proceed with any of this unknowingly and they did not try to shuffle it under the rug, but rather reviewed the legalities and it is their belief that it conforms. He finished his presentation.

Chair Sippel asked if the Commission had any questions for the applicant. Seeing none, he asked the Commission if they had any more questions for Staff.

Comment: David Cavenee said he appreciated the three members of the public that had spoken. He also thanked the applicant for adding input. He said that he appreciates that the applicant has tried to minimize the driving on 29th Place. He said he thinks it is helpful that they have tried to align the drive in between homes, rather than directly across from any single driveway. He said he thinks that will help, as well as the right-out only should assist in pushing traffic to the south. He said he isn’t familiar with the details of the deed restriction, but he said he does know that this was zoned Neighborhood Office (NO) not long ago and so he thinks it is unlikely that it could have been only residential. He said he isn’t troubled by the issues that were commented upon in regards to deed restrictions. He thinks the applicant has addressed all the issues that the Commission had brought to their attention. He thinks it is a fine project and given the options of what could have been placed on the site, this will be a wonderful opportunity for the neighborhood and the Town to have a minimal traffic, quality, quiet facility. He is in favor of the project.

Chair Sippel asked if there were any further comments or questions for Staff. Seeing none, he closed the public hearing and called for a motion. Vice Chair Andersen made a **MOTION** to approve Item 12, DR17-1037, American Groves Senior Living, subject to Staff recommendations; seconded by David Cavenee; motion passed unanimously.

Motion passed 7-0

16. DR16-55, BB LIVING AT VAL VISTA: BUILDING ELEVATIONS, FLOOR PLANS, AND COLORS AND MATERIALS FOR A 217 UNIT MULTI-FAMILY RESIDENTIAL COMMUNITY ON APPROXIMATELY 21.26 ACRES, LOCATED AT THE NEC OF ROME STREET AND GERMANN ROAD, IN THE MULTI-FAMILY LOW (MF/L) ZONING DISTRICT, SUBJECT TO CONDITIONS.

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR16-55, BB Living: Building elevations, floor plans, and colors and materials, for a 217-unit multi-family residential community on approximately 21.26 acres, located at the NEC of Rome Street and Germann Road, in the Multi-Family Low (MF/L) zoning district, subject to conditions, subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.
2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. Administrative Design Review approval is required prior to submitting for sign permits.
4. The applicant shall provide to Planning staff revised Community Building elevations prior to construction documents

Nathan Williams began his presentation on DR16-55, BB Living at Val Vista. He said that last month the Preliminary Plat and Open Space Plan for this project had been approved by the Commission. He shared the location of the site at the northeast corner of Rome and Germann Roads. He shared the site plan that was approved, as well as the Preliminary Plat and Landscape Plan. He said much work has been done in terms of shifting buildings around so that the project would not be so alley-loaded. He said the Commission had seen the elevations during the January Study Session and since that time, a lot of work had been put forth on designing the elevations in a way that reflected the concerns of the Commission. He shared some of the project details. He said the site is approximately 21 acres in the Multi-Family Low (MF/L) zoning district. He said the design of the site has already been approved, and they are now looking at the elevations and colors and materials of the buildings. He said that previously they had 4-plex and 7-plex buildings, but now they have 4-plex, 5-plex and 6-plex buildings. He said there are 217 total units and 41 total buildings. He said most of the units are 3 or 4 bedroom and

2 ½ to 3 ½ baths. He said the applicant is in compliance with their parking requirements. He said they also have street cross sections that would possibly allow for on-street parking on one side if that would become an issue. He shared the original color schemes that the Commission had seen back in January. He reminded the Commission that at that time, they had suggested that the two color schemes were very similar. He showed the previous elevations, and pointed out where he had circled some of the issues they had with some of the plain facades and lack of articulation on the side and rear elevations.

Planner Williams stated that there are four different floor plans. He said there are now two different architectural themes called A and B, and amongst those, they have three different color schemes. He said this has provided much needed differentiation. He said they also have upgraded the rear elevations. He said previously they had ground mounted equipment in the front, but they have now moved it on top of the roof and screened it and integrated the screen. He said they had also expanded the front courtyard. He shared the three color schemes, noting that the main differences were the accent colors. He said they used different combinations of their base colors. He shared the 4-plex floor plan. He shared the different elevations for the 4-plex plan. He also shared what they had done to the rear elevations, noting that they had provided a lot more articulation than the flat façade that they had on the original design. He shared the 5-plexes, as well as the 6-plexes. He said that Staff feels that the applicant has done a really good job with coming through with a modern design that the Town will be pleased with. He shared the community building. He indicated that Staff believes that the revisions the applicant has made have adequately addressed both Staff and the Commission's comments from Study Session. Planner Williams finished his presentation.

Chair Sippel called for any questions or comments from the Planning Commission. Seeing none, he invited the applicant forward to speak.

Brandon Lombardi, of Tempe, introduced himself. He thanked the Commission for working with them over the past few months to redesign this project.

Question: Joshua Oehler said that one of the main concerns was the drive aisle with all the end caps. He asked how they were working with that on the east side.

Answer: Brandon Lombardi shared the site plan and showed the various color schemes and how they were laid out. He said that on the eastern side, they worked to make it so that when someone was traveling on the road, they wouldn't see the same thing all along the way, but there would be movement in the road that changes the viewpoint. Secondly, he said that every building along the eastern side is varied and although each of the buildings are 5-plexes, they flip-flop between A and B architectural themes. He also said that each of the end units that face the street side will be a different unit every time and that this will improve the side elevations and give it more articulation.

Chair Sippel reminded the audience that this was a Public Hearing and invited any member of the public who wished to speak to fill out a public comment card and turn it in at the Staff table. Seeing no one who wished to speak, Chair Sippel asked if the Commission had any further

questions for Staff. Seeing none, Chair Sippel closed the Public Hearing and brought the discussion back to the dais.

Comment: Joshua Oehler said he appreciated the way Staff and the applicant had worked together to improve the design. He said he believes that this project came in at a certain level and by working back and forth over time, it has become a much better product that the Town of Gilbert can be proud of. He said he is proud of the process and how this works. He said he would now be in favor of this project.

Comment: Greg Froehlich said that he also would like to echo the comments of Commissioner Oehler. He said he believes this is now a great project. He said it is nice to see they have addressed the concerns about the dead-end roads. He said he appreciated the way that Planner Williams had compared the changes from the first submittal to the current submittal. He said he found that very helpful. He said the articulation on the new design looks much better.

Comment: Chair Sippel said he would also like to echo the comments made by his fellow Commissioners. He said that tonight they have seen a couple of projects that looked very different when they were originally submitted and he appreciates the work that goes into making changes to the designs.

Chair Sippel called for a motion to approve Item 16, DR16-55. David Cavenee made a **MOTION** to approve the Findings of Fact and approve DR16-55, BB Living at Val Vista; seconded by Brian Johns; motion passed unanimously.

Motion passed 7-0

17. DR17-1016, ARC MEDICAL OFFICE: SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, ELEVATIONS, FLOOR PLANS, LIGHTING, COLORS AND MATERIALS FOR A 11,091 SQ. FT. MEDICAL OFFICE BUILDING, LOCATED ON APPROXIMATELY 1.5 ACRES, GENERALLY LOCATED NORTHEAST OF THE NORTHEAST CORNER OF VAL VISTA DRIVE AND MERCY ROAD AND ZONED GENERAL OFFICE (GO) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY, SUBJECT TO CONDITIONS.

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-1016, ARC Medical Office: site plan, landscape, grading and drainage, elevations, floor plans, lighting, colors and materials for a 11,091 sq. ft. medical office building, located on approximately 1.5 acres, generally located northeast of the northeast corner of Val Vista Drive and Mercy Road and zoned General Office (GO) with a Planned Area Development (PAD) overlay, subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the July 12, 2017 public hearing.

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2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. All signs shall be approved through a separate permitting process.
4. Address minor outstanding 2nd review comments, prior to submittal of Construction Documents. These include minor items such as updating sight triangles, text and labeling errors and coordinating the Fire Hydrant location with the Grading and Drainage Plan.
5. An updated Trip Generation Statement is required and shall be reviewed and approved by the Traffic Engineering Division, prior to submittal of Construction Documents.
6. THE ACCESS POINT ONTO MERCY ROAD SHALL BE GATED AND RESTRICTED TO FIRE ACCESS ONLY.

Nichole McCarty began her presentation on DR17-1015, ARC Medical Office. She indicated the location of the project right across from Mercy Gilbert Hospital on the northeast corner of Val Vista Drive and Mercy Road. She said it is a 1.5 acre site and is zoned General Office (GO) with a Planned Area Development (PAD) overlay. She said the site is currently vacant, but surrounded by other General Office (GO) uses. Planner McCarty shared that the project being proposed is an 11,000 square foot office building with two medical suites, one of which would be the Associated Retina Consultants (ARC). The ARC suite would be approximately 6,300 square feet of the building and the additional 4,800 square foot section would be vacant initially, but is designed as another medical suite. She said the project is a single story, contemporary design with adequate landscaping. She said the applicant is meeting their parking requirements and they also have offered 15 covered parking spaces. She stated that they also have two passenger loading spaces near the entrance which is a nice amenity for a medical office. She shared some information about the surrounding area and the businesses located nearby. Planner McCarty then shared the site plan, noting the main entrance to both of the medical suites. She said the site has great pedestrian connectivity to both Mercy Road and to Bonanza Court. She said the main access point will be off of Bonanza Court and will be a full motion access. She informed the Board that as a condition of approval, the Traffic Engineering department has added Condition number 6 (shown above under Staff Recommendations). She said this had been given to the Commission in an Addendum report earlier today. She further informed the Commission that the access point along Mercy Road did not meet the Town's engineering standards for separation requirements from the driveway to the south, therefore Traffic Engineering has asked that this access point be gated for Fire access only. She said due to this condition, Staff would have to see the site plan again and Traffic Engineering would have to review the modification. She also referred to the engineering standard which reads "the minimum spacing along a major collector should be 165' from center line to center line." She said what is showing on the current site plan is 90'. She shared the Landscape Plan, noting that there are a lot of shade trees, especially on the west elevation. She shared the floor plans of the two medical suites. She said that the applicant had added a nice outdoor employee break area

that is connected to the employee break room. She shared the building elevations, pointing out that they are very contemporary. She said the applicant is using a steel angle wainscot accent and has used steel mesh panels throughout the design as another accent feature. Planner McCarty shared a 3-D Perspective looking southeast from Mercy Road, as well as a 3-D rendering of the entry area. She discussed colors and materials and site lighting. She told the Commission that Staff recommends approval of this project, subject to the conditions set forth by Staff and inclusive of the additional condition added (Number 6). She also noted that Condition 5 and 6 are both related to traffic engineering and let the Commission know that the Town Traffic Engineer was in attendance if the Planning Commission had any questions for him. Planner McCarty finished her presentation.

Chair Sippel asked if any member of the Commission had questions for Planner McCarty.

Question: Carl Bloomfield said that he loved how the site plan originally flowed assuming there was access out to Mercy Road. He said that if this access is gated off, it would create a dead-end and he thinks that would be unfortunate. He asked if the applicant has had a chance to take a look at that and if they were in agreement with this request.

Answer: Nichole McCarty said that the applicant does have concerns about that access point being closed off. She said that the applicant has expressed that he would like to talk about that tonight.

Question: Greg Froehlich noted that there are two driveways shown on Mercy Road and they had discussed closing the northernmost of the two access points that are adjacent to each other. He asked if there was an opportunity to close the other one instead or if there is an opportunity to combine these parking lots to utilize one of those driveways with both sites.

Answer: Nichole McCarty said that the driveway Commissioner Froehlich mentioned is a driveway to the AB Staffing project to the south. She said that when these projects come in, the engineering standards say that they should encourage shared access. She pointed out that Staff tries to encourage shared access. She said that when the other project came in, that developer met their minimum separation distance from the driveway to the south, and they didn't want to share access at that point. They just wanted the access point to be on their site. She doesn't know the reason they didn't agree to shared access, but pointed out that it isn't something they can require. She mentioned that to allow shared access at this point, it would have to be retroactively done and that isn't something Staff can require.

Chair Sippel asked if there were any more questions for Staff. Seeing none, he invited the applicant to come up to the podium to speak.

Grant Olds, of GLOA Architects, introduced himself. He said he has done a lot of work in the Town of Gilbert and has served on the same dais as the Commissioners for about six years with the City of Tempe, so he understands how difficult the position is. He said he prides himself on the fact that he never ends up on the Non-Consent Agenda. He said his firm doesn't typically ask for their projects to be at this level until they have fully developed them. He said that is also what happened in this case. He said that several other properties were considered for this project, but this site took precedence because it was on Mercy Road. As part of the due diligence

process, they came before the Town and made sure the address that they had been given (which was a Mercy Road address) was in fact the address for this property. When they went through the pre-application process, they did not submit a sketch, but rather submitted a full Design Review packet that was ready to be reviewed at the Commission level. At the pre-application meeting, it was pointed out that the area was re-platted in 2005. In 2005, the 1.5 acre lot was approved by the Town Engineering staff and at that time it was contemplated when it was given a Mercy Road address, that it would have access on Mercy Road. He pointed out that somehow between 2005 and the development to the south of this project, someone failed to do the appropriate math. Mr. Olds noted that you cannot have two driveways on two different pieces of property and meet the Town's 165' separation requirement. He suggested that when the Town Engineer re-platted this property, he obviously contemplated a shared driveway, but this shared driveway didn't happen. He finds the idea that the Staff can only encourage shared access to be interesting. He stated that it seems interesting that they can be denied an access, but they can't enforce a shared agreement. He said when they looked at this project and considered the land, the first thing they realized was that they couldn't meet the Town's standards for a driveway, so during pre-app, the main conversation they had was regarding this driveway. At that time, the Town's Traffic department representative that was assigned to them at pre-app, was Scott Hamlin. Mr. Olds said they spent approximately two-thirds of the pre-app meeting discussing this driveway and how it fails to meet the standard. They discussed that this was obviously an oversight. Mr. Olds said he made it very clear that his client was only interested in this property if it had a Mercy Road address and a Mercy Road driveway. When they left the pre-application, they received assurances that they would be able to work something out. Mr. Olds said that when they received the Staff Report, it did tell them that they would have access off of Mercy Road.

Comment: Joshua Oehler asked if Mr. Olds had those comments.

Response: Mr. Olds then put the document on the screen for the Commission to see.

Grant Olds shared the Staff comments, where he had highlighted in green "we will grant the access, but would like to see it designed as an entrance only." Mr. Olds also noted that at the bottom of the staff comments, it states "Call Scott Hamlin if you have any questions." Because it said "designed as an entrance only," he said he had a concern about that statement and he immediately called Scott Hamlin on March 16. He then shared his phone notes from the call. In his discussion with Scott Hamlin, he told Mr. Hamlin that this wasn't exactly what they had talked about at the pre-app meeting and he wanted to make sure that they were good to go with that driveway. At that time, Mr. Olds said Mr. Hamlin's response to him was that this would be a recommendation, but they would not hold them to it if his client wasn't agreeable. He said that at no time had GLOA ever said that their client would be agreeable to anything but a regular driveway on Mercy Road. After these notes had been received and after this conversation with Mr. Hamlin, Mr. Olds stated that they went ahead with the purchase of the property, based on their due diligence report back to the client that everything was good to go. He reminded the Commission that they paid for the pre-application process, so they expect a certain level of competency. He said they were told that Scott Hamlin would be their contact in Traffic. He said this led him to assume that Mr. Hamlin had the authority to make decisions. He said that apparently the next thing that happened was the project was handed off to the next Staff person

in Traffic, who did not bother to read any of Scott Hamlin's notes and who didn't know anything that happened in pre-app, who then provides Design Review comments which say "it is recommended."

Comment: Joshua Oehler asked if he could put the site plan on the screen.

Response: Mr. Olds put the original site plan on the screen that they had brought in during pre-app.

Mr. Olds said that the pre-app meeting occurred on March 13 and they received the notes about the pre-app meeting on March 16. He referenced a comment that was made which said "minimum spacing of collector between access points is 165' center line to center line. Shared driveways are encouraged." At that time, they already knew the driveway to the south was under construction and because it was already approved, they couldn't do anything else about that, so that is why from the very beginning they were concerned with what they were going to do with the fact that they wouldn't be able to meet the standard. The day after they received the notes regarding pre-app, Mr. Olds said that he immediately contacted Scott Hamlin to make sure they were all on the same page. Mr. Olds stated that there was no emergency, stating that the addendum that changed the entire report happened just yesterday. He said this agreement occurred back in March. He said it was suggested yesterday that they might want to consider pulling the project for another 30 days to talk about how to resolve this issue, but he stated that this happened in March and there has been plenty of time to resolve this issue. He said it was his understanding that the agreement was met. He said that when they went through their first review for Design Review, they thought what came back was in line with what they had been told by Mr. Hamlin because it said there was a "recommendation." He then put the 1st Review Comments from Design Review on the screen. He noted that the comments listed a Traffic Staff recommendation that this be accessible right-in/ right-out. He said that this was a different traffic reviewer. He was under the assumption that when one traffic reviewer handed off to another, they would review the case and read the report from the previous person. He said he also thought their boss should read the report before he steps in the day before a Commission meeting and completely changes the project. He said he feels completely ambushed in this whole process. He has a client that bought a property based on what happened at a pre-app meeting and now three or four months later, everything is off the table. He said he finds this totally unacceptable. He said he has never been in an adversarial situation with Staff prior to this, but right now he is very bitter that he has been put in this position. He also pointed out that there is a huge liability issue that his firm has been exposed to, because of the Town Staff's lack of competency.

Chair Sippel said he appreciated that Mr. Olds had provided the documents. Chair Sippel asked Mr. Olds if he minded if they brought the documents up to the dais for review. Mr. Olds agreed.

Mr. Olds said he also wanted the Commission to know that in October of 2016, he had initiated a public records request due to the fact that they were moving dirt on the adjacent property. He said his client had identified this as a property he might be interested in and they did a public records request to see the DRB package so they could see if that was a shared driveway. He said it was obvious to anyone looking at the Plat that it had been contemplated that the property

would be a shared driveway. He said there would be no other reason to have a 1.5 acre property in that zoning district. He said that he also had the public records document for review as well.

Chair Sippel reminded the members of the audience that this was a Public Hearing and asked if anyone wished to speak on this item. Seeing none, Chair Sippel called for questions for Staff or the applicant.

Question: Brian Johns said it looks like there is a median on the drawing that goes between the road.

Answer: Nichole McCarty answered affirmatively that there is a median in the center of Mercy Road.

Question: Brian Johns asked if that would have the effect of being right-out regardless.

Answer: Nichole McCarty answered that it would be right-in/right-out no matter what.

Comment: Brian Johns said that he thought that was an important piece of information as they discussed this issue.

Chair Sippel invited the Town Traffic Engineer Rajnish Gupta to come up to answer questions.

Question: Vice Chair Andersen wanted to clarify that there was a proposed stipulation stating that the second access be fire only. He asked if that stipulation came to light yesterday. He said if that is the case, he wanted to know how that could even happen.

Answer: Rajnish Gupta said that they had sent comments back on May 9th regarding the fact that Traffic Staff recommends this proposed access should be gated and accessible to fire only. He said the bigger issue to consider is the engineering standard. He said the standard includes a “shall” condition stating that if there are two driveways on the same site they “shall not be” less than 165’. He said that these are the facts regarding the issue, noting that it was difficult for him to let the standard go and allow a right-in/ right-out or a right-in only because he didn’t see a reason to grant the access because the project has a full access from Bonanza Court.

Chair Sippel asked Vice Chair Andersen if that answer sufficiently answered his question. Vice Chair Andersen said he wasn’t sure his question had been adequately answered.

Question: Vice Chair Andersen said he didn’t understand why, if this application had been sitting around for such a long time, with so many eyes on it, how this additional stipulation requiring a “fire access only” could have just come about yesterday.

Answer: Rajnish Gupta verified that they had provided this information back in May and they had not heard from the applicant. A couple of days ago, they had to determine what should be done with this issue. He said they had already conveyed to the applicant that this was going to be a gated fire access and they didn’t hear anything back from the applicant. He said he had to decide if they were going to throw the standard out because someone didn’t do a shared access. He said if this particular site was landlocked and there was no way to get an access, he would have considered an exception, but this was not the case. He said he cannot see a reason to grant an exception because this could set a precedent of the Town making exceptions to the Standards.

He also reminded the Commission that the design guidelines don't say you "may have 165' of separation, but instead says you "shall have 165'. He said a "shall" condition means it "shall" meet that Standard.

Question: Vice Chair Andersen said he understands the Standard and the need to meet it, but he asked what the negative side of granting a full access point at this location would be. He asked if there was enough traffic on that road that it would cause an unsafe situation or if this was granted, if the traffic would be so minimal, that it would be a moot point.

Answer: Rajnish Gupta said the separation spacing is based because of the condition of safety, noting that the more access you have, and the closer you have access, the chances of having traffic issues increase. He said that is why they have Standards of spacing to minimize the conflict point. He said in this case the biggest issue is the Standard. In this case, they would have to make an exception to the Standard. He said he just didn't see a reason to make this type of exception.

Question: Vice Chair Andersen asked for input from Planning Manager Edwards or Nancy Davidson, Town Attorney as to whether the Planning Commission has the authority to give an exception if they felt one was necessary.

Answer: Planning Manager Edwards said that Planning Staff and Public Officials do not have the authority to override Code that the Town Council has adopted. In this case, because the Town Council has adopted Engineering Standards, they would not be able to make an exception. She said if it was a Design Review issue in the guidelines, they have worded the guidelines in such a way to provide greater flexibility, but in this case it is a Code requirement.

Question: David Cavenee asked for clarification on the fact that this was a Code requirement, yet a member of Town Staff had told the applicant that they would be granted this access. He said this seemed to him to be a huge problem.

Answer: Planning Manager Edwards asked Commissioner Cavenee to rephrase his question.

Question: David Cavenee referenced the statement from Scott Hamlin where he indicated this access would be granted, noting that this seemed to be due diligence on the part of the applicant, but then later the decision was changed.

Answer: Planning Manager Edwards thanked Commissioner Cavenee for the clarification, stating that she had misunderstood his question and thought it was in reference to Staff here in this room at this time. She said she has worked for and volunteered for the Town of Gilbert for over two decades, noting that at times this involves filling big shoes. She pointed out that the members of the Commission are seasoned professionals that have worked with teams. She said that many times those teams do a lot of work, but the Manager or the Engineer or the Professional is the one that makes the hard decisions. When those team players do the very best job they can, with the volume of work and the expected turnaround, sometimes the strength of that message and the exactness of the message gets lost. At the point that documents are coming to the Commission for final approval and these documents have passed the desk of a professional Engineer, who cannot meet the recommendation of a Staff member, they must go with Code. She acknowledged that there are times when their Staff make decisions, but they do their best to catch any decisions that aren't in line with Code and follow through with what they know is right

and what meets Code. She said in this case, the language was too soft and too flexible, but in this case, it is a Code requirement, not a recommendation.

Question: Brian Johns asked what the distance is between the two driveways currently.

Answer: Rajnish Gupta said the distance is 90’.

Question: Brian Johns asked if the Code sees it one way because of this basically being a one-way street. He asked if the Code sees a one-way street differently than a two-way street.

Answer: Rajnish Gupta said he had considered this and read through the specifications. He said that the way the Town’s roads are laid out, they have medians in many places, so he assumes that access means access, no matter whether it is right-in/right-out or right-in only or a full access. He said the Standard doesn’t differentiate between the type of access.

Comment: Carl Bloomfield said he can see the applicant’s point, but he also sees the challenge with the fact that this is an Engineering Standard. He said he is thankful that this type of thing happens very rarely. He said he appreciates the efforts of Staff, pointing out that there is a tremendous amount of development that occurs in Gilbert, and it is a difficult task to catch every detail. He said he also wondered if there was anything they could do about this problem as a Commission, but noted that they have been told that there is not. He said this leaves him feeling the need to commiserate with the applicant and support Staff. He said he has his concerns, but isn’t sure what should be done. He said he would love to grant a variance, but the Commission can’t do that.

Chair Sippel asked if there were any further questions for Staff.

Question: Greg Froehlich said he is trying to figure out what their options are. He asked what the distance was between the driveway to the other site and Bonanza.

Answer: Rajnish Gupta said he didn’t know exactly, but indicated that this would bring up another issue. Because there is access on the other side, there should be 240’ from that access to any other access.

Comment: Greg Froehlich said this answers his question that there is no opportunity to shift that driveway to the north. He realized it would completely re-do the site, but he said it was good to know that it wasn’t even an option.

Question: Greg Froehlich asked if it was unprecedented to try and get a shared access agreement.

Answer: Planning Manager Edwards said there is always the opportunity for landowners to work together, but they cannot force a private agreement, even though it would be good if they did negotiate a shared agreement. She said they did recommend a shared point of access through the eastern parking lot, but the first player in on the south side of the project, did not want the shared access. She said what they are hearing from their applicant, is that they were banking on the other property owner granting a shared access agreement. However, she acknowledged that sometimes there are times when landowners do work this out.

Comment/Question: Joshua Oehler said he was trying to take a look at the documentation. He stated that he has been through this process multiple times with the Town of Gilbert himself and he said he appreciates how diligent Staff is during the process. He said he assumed that this had never come before the Commission prior to tonight, because this was a package to get ready to come in for Design Review approval. He said he sees the labeling for different conversations that took place during pre-app and in other conversations. He said that he can see that this was a direction that was given and he indicated that would be the direction he would go if that was the direction given to him, but he asked about the May documents. He said that it looks like the May documents say that Staff recommends a proposed access to be gated and accessible to Fire. He asked if there had been any discussion after that comment or if the only paperwork they have is from the Pre-app meeting. He said he wanted to know what had happened amongst the Staff after the comments dated May 22nd.

Answer: Rajnish Gupta said there may have been a conversation with another Staff member and the applicant, but he didn't see anything forwarded from the applicant saying either yes or no. Then two days ago, he arrived at a decision that this Fire access only was going to be a requirement for approval of the project. He said given the fact that they had not received any response from the applicant, they moved forward with the Condition of approval. He said that nothing would change the fact that it doesn't meet the Standards.

Chair Sippel asked the applicant to come back up and provide some additional input as to what happened from May 22nd up to the present time.

Grant Olds said he doesn't know how things work at the Town of Gilbert, but when he is told that the person he is to deal with is Scott Hamlin, and then he receives a report from someone he has never heard of and never met, he picks up the phone and calls the person he has been told to talk to which is Scott Hamlin. After this happened, he called up Scott Hamlin and asked if this was an issue. He told Mr. Hamlin that this had already been discussed. Mr. Hamlin stated that this was a recommendation and that they were going to stick by the recommendation.

Question: Chair Sippel asked if that was the writing showing on one of the documents.

Answer: Grant Olds said he was referring to a conversation on May 22nd when he received the comment back stating it was a recommendation. He said from May 22nd onward, they made every single change that Staff had asked for. He said that with them responding to every required change, it should have been obvious that they weren't expecting to need to change the driveway. He said that Staff must not have contemplated that they would be changing the driveway either, because the report prior to the addendum, doesn't contemplate that driveway being closed off. He said they didn't change the documents because they thought they had an agreement and they talked to the person they were told to talk to. He said what irritates him more than anything else, is how is he supposed to move forward with the Town of Gilbert, if he can't believe the people that they send to the meeting.

Chair Sippel said they would try and work that out right now. He thanked Grant Olds for his comments. Mr. Olds said he had some additional information he wished to provide.

Grant Olds pointed out that he is a little emotional because this is a 15-year client and the potential liability against his firm is outrageous. He then said that in the phone call yesterday with Raj Gupta he was told that the Planning Commission would be able to make a decision and they can grant a waiver. Now he is here tonight and being told that the Commission doesn't have the authority to do so. He doesn't know how anyone can work with the Town of Gilbert under this kind of criteria. He said he doesn't even know why he is here before the Commission if there is no point. He said it was his assumption and he was told that he had a 50/50 chance of the Commission giving him some type of a waiver.

Chair Sippel asked if there were any other questions for Staff or the applicant.

Question: Vice Chair Andersen asked the Town Attorney if there was any process in the Town to grant waivers, now that he has been told that the Commission doesn't have the authority to do so.

Answer: Nancy Davidson said that she isn't aware of any process, due to the fact that the Standards use the term "shall." She said this is the first she has heard of this issue, and she is trying to quickly do some additional research.

Answer: Planning Manager Edwards said she isn't aware of any variance or waiver for the Commission to have authority to deviate Town Code. She said the only waivers she is familiar with are variances for Code that are occasionally given by the Fire Marshall. She said this is not a Fire Marshall issue, but a traffic issue.

Question: Vice Chair Andersen asked if they had someone on the Commission that did something related to variances to Code.

Answer: Joshua Oehler said he was the Zoning Hearing Officer and he hears variance requests.

Question: Vice Chair Andersen asked if there was anything in that process that could solve this problem.

Answer: Joshua Oehler said he also was wondering if there was a way to receive a Code modification or a variance, but noted that it would not be from the Commission through the process he is involved in.

Comment: Planning Manager Edwards said the variances that this Commission is familiar with are for the Land Development Code, which typically deals with fence heights or setbacks. She said the type of variance they are discussing would be a variance from an Engineering Standard and those Standards come from a Public Works document.

Comment: Joshua Oehler said he agrees with that and realizes that the process would not be through the Zoning Hearing process, but said he thinks there has to be some process in place wherein someone from the Town Engineering side could do some sort of Code modification.

Response: Planning Manager Edwards said that in fairness to the applicant, because they don't have the Town Engineer, Dave Fabiano, in attendance, she doesn't know what authority or processes they have to vary or waiver from an Engineering Standard. She said she didn't know that process and in fairness to the applicant, she wondered if it was in the best interest of the

applicant to continue this case until they have fully looked into a process that may exist that she isn't aware of.

Chair Sippel said he wanted to close the public hearing and bring the discussion back to the dais. Before he closed the public hearing, the Planning Commission had a few more comments and questions.

Question: Chair Sippel asked Rajnish Gupta if he knew the answer to the question regarding a possible process that would allow some type of waiver that Linda Edwards mentioned.

Answer: Rajnish Gupta said that in his conversation with the applicant he had mentioned that as a possibility. He said if the need for a variance is strong enough, they can consider it. But because the applicant does have a full access, he doesn't see a reason to have another access so close that would require a variance. He said it would be different if this were a lot that had no access at all, then they could make a solid case for a variance. In this case, however, he doesn't believe there is a solid case for a variance just so they have access to Mercy Road. He said he discussed this briefly with Dave Fabiano before he left for his vacation. He said he explained the situation and at that time, Dave Fabiano agreed with him. He said that Mr. Fabiano might have a different opinion at a later date, but at the time he spoke to him, he was in agreement with the decision.

Comment: Joshua Oehler said he thinks there might be additional things they could consider. He said he understands the issue from an engineering point of view, and that it seems black and white, but from a zoning point of view that also deals with engineering, he said the fact that this is an awkward site could be brought into consideration. He said that from a design perspective, placing a Fire access only gate, creates a dead-end and he said he wouldn't want to approve the project with a dead-end because that would make this a poor site plan. He said to use this property, without having two points of egress, might be another way that Traffic could consider taking a look at it, so he suggested not looking at it as just a black or white answer, but looking at the site overall and considering all the issues with the site.

Chair Sippel called on the Town Attorney Nancy Davidson, who had a potential solution for the problem.

Nancy Davidson said she might have a potential solution. She said there is something in the Engineering Standards that talks about deviation from the Standards. She said it applies to Plats and Subdivisions, but she thought that if the applicant was willing, the Planning Commission could make a motion to approve the project, conditional on the Town Engineer going through the process of and approving a technical variance.

Comment: Chair Sippel said that Attorney Davidson's proposed solution was one possibility, but he said he had another thought. He suggested that they could Continue the case, stating that this would be a Fire access, but then wondered if they could then avoid putting the gate up.

Response: Planning Manager Edwards said that the gate would have to be put in.

Comment: Vice Chair Andersen said he liked the idea that the Town Attorney had suggested, but he said he would be leery about approving it that way, in case the condition wasn't approved by the Town Engineer. He said he would like to discuss with the other members of the Commission the possibility of voting to Continue the case until next month to give the Town Staff more time to see if the Town Engineer would be willing to grant this request. He said if the Town Engineer is on board to do this, then the case will come back before the Planning Commission and they can approve it without that condition.

Chair Sippel closed the public hearing and brought the discussion back to the dais.

Question: Carl Bloomfield asked if the change to the one point of access which makes it "Fire access only", would change the project's address or if it would still be addressed on Mercy Road.
Answer: Chair Sippel said it would still be addressed on Mercy Road. He said they would have a Mercy Road address with no access to Mercy Road.

Comment: Carl Bloomfield said that would be a challenge.

Comment: Chair Sippel said that he is a big fan of the Town Staff, but he said he feels that they have hit a major pothole on this project and he doesn't think any of the other members of the Commission would disagree with him. He said he is at a point where he believes there is no way that they shouldn't try and figure out a way to solve this problem and get this project done. He said it doesn't make any sense that they can't figure out a way to grant the project access, more than it just being a "Fire access only." He reminded the Commission that the Town Attorney mentioned the possibility of a Continuance, as did the Vice Chair. He said without the certainty that the access could be approved, he doesn't feel they can move forward. He said he is shocked that there isn't something the Planning Commission can do as a body to grant this request. He thinks there has to be somebody that can grant this request.

Response: Joshua Oehler said it would have to be someone in a different department. He said it would be related to Building as opposed to Planning. He said this is a Civil Engineering Building department issue versus a Planning issue.

Question: Chair Sippel asked why they were even talking about the possibilities if they have no authority.

Question: Brian Johns, referencing Chair Sippel's thought about leaving off the gate at the location of the fire access point, said he had noticed that inside the comments, they had said it could be "right-in only." He said he didn't know if that was off the table or if the Engineer has decided that if it's a right-in only, it doesn't meet that 165' requirement.

Answer: Rajnish Gupta said he also wanted to help the applicant and tried to figure out what was the best way to address this problem. However, he said if you are looking at the Standard, there just isn't any ambiguity in the Standard. He said that it doesn't specifically suggest the type of access, whether right-in/right-out or right-in or full access. It just refers to access and his interpretation is access is access. It doesn't matter which kind of access it is. He said that any location where there is a median, there is always a right-in/right-out. He said he thinks the possibility of working out the shared access would be the best possibility.

Question: Brian Johns asked if he was the Town Traffic Engineer.

Answer: Rajnish Gupta answered affirmatively.

Question: Brian Johns said that if he is the Traffic Engineer, if it is up to him to determine his interpretation of what the Code says.

Answer: Rajnish Gupta again referred to the fact that the Engineering Standards use of the word “shall” makes it difficult.

Comment: Brian Johns said he was having issues with this, because he didn’t see it as a black and white issue. He said there are some additional things to consider, like the fact that it is, in essence, a one-way, because it is a right-in only. He said that Staff had already commented that a right-in is acceptable. He said he hates to see this case have to be continued to next month. He doesn’t think that is fair to the applicant and he doesn’t think it will look very good for the Staff or for the Planning Commission. He thinks that if they could approve it with a right-in only and if that is within Rajnish Gupta’s decision, he thought they could add a Stipulation that this is to be worked out at a future date with more discussion. He said he didn’t know if a Traffic Impact Analysis had been required on this, but he said that might play into this, because it might take some of the Code requirements off of the Traffic Engineer, and puts it onto a third party. He said there may have already been a TIA, but that would give it time to be able to continue forward with the project. He acknowledged that he may be misunderstanding something.

Response: Joshua Oehler said it was his understanding that this would mean they would be approving something that is against the Code. He said he agrees that they have to find a solution, but he doesn’t think the solution has been found up to this point. He said the Code says there has to be a separation between two driveways. He said it doesn’t delineate right-in/right-out because the separation is already required between the two. He said they would be approving something that doesn’t meet the Code and that doesn’t solve the problem.

Question: Chair Sippel asked if the Commission was allowed to change Stipulations.

Answer: Planning Manager Edwards said they could request that Condition Number 6 be changed from saying “the access point onto Mercy Road shall be gated and restricted to Fire access only.” to saying “the access point onto Mercy Road shall be gated and restricted to Fire access only unless otherwise approved by the Town Engineer.” She said that the Town Engineer, according to what Attorney Nancy Davidson is showing us, has the authority to consider a technical variance. She indicated that this was the suggestion that Attorney Davidson is recommending. That way the Commission can approve the project, unless otherwise granted by a technical variance from the Town Engineer.

Comment/Question: Chair Sippel thanked Planning Manager Edwards and Attorney Nancy Davidson for processing this with them in real time. Chair Sippel asked if the Town Engineer denies the request for a technical variance, if there would be any chance for the applicant to appeal that to the Town Council.

Answer: Planning Manager Edwards said they could appeal it to the Town Council.

Comment: Chair Sippel said the Town Council could get final say about this if this would continue to be an issue.

Response: Planning Manager Edwards said that would be the process. She said that a project at the Design Review level, if appealed, goes to the Town Council.

Question: Joshua Oehler asked if that process would take place if they denied it.

Answer: Chair Sippel said that they could still approve it with the change to Stipulation 6 that Planning Manager Edwards had just suggested. He said that he hoped the Town Engineer is watching these proceedings and the discussion that is taking place. He said if, in fact, the Town Engineer were to still deny it, then the decision would be appealable to the Town Council.

Comment: Linda Edwards said they should keep in mind that an appeal is valid 10 days after the decision and if the Town Engineer, who happens to be on a 3-week vacation as of yesterday, is not back, the safest bet is for the applicant to appeal the case after it is approved, but then not request a Town Council hearing until the Town Engineer gets back and has a chance to look at the project.

Question: Chair Sippel asked if the appeal costs more money.

Answer: Linda Edwards said that an appeal costs \$150.

Comment: Linda Edwards said that it had been brought to her attention, that in the absence of the Town Engineer, they have an interim Town Engineer appointed. She said what they are suggesting that the applicant could do, is to give the applicant the right to appeal, and work very quickly with Rajnish Gupta and the interim Town Engineer so that the applicant would have the opportunity to decide if they want to appeal within 10 days.

Question: Chair Sippel asked who the designee is.

Answer: Linda Edwards said that it was Susanna Struble, our CIP Manager, who is also an Engineer.

Comment: Chair Sippel said that this means they are not without a Town Engineer, but that there is someone who could look at this in the next couple of days.

Response: Vice Chair Andersen said it wouldn't be until next week because the Town takes Fridays off.

Comment: Chair Sippel said that it could definitely be within the 10-day window though.

Response: Planning Manager Edwards said it just had to be within the 10 days. She said that they can go ahead and encourage the applicant to appeal, so that they don't miss the 10-day deadline, and then if everything is worked out, they could refund the applicant's money.

Question: Vice Chair Andersen asked if it was calendar days or business days.

Answer: Linda Edwards said it was calendar days.

Question: Chair Sippel said he liked that idea. He asked if the appeal process was cumbersome with paperwork.

Answer: Linda Edwards said it is an easy process. She stated that it is a letter, not an application. She said they would be very comfortable working with Mr. Olds as they have worked with him on many projects. She said that if this is a choice he makes, they will work with him very quickly.

Chair Sippel called for any other questions or comments, stating that he personally isn't comfortable with any of the decisions before them at this point.

Comment: Joshua Oehler said he thinks they are getting closer to a solution, but he thinks if something goes awry and they can't find a solution, they have approved a plan that has no result, other than going to Council. He said personally his vote right now would be to Continue the case and work with Staff to find a solution and then come back. He said he understands it would be a delay and he hates that, but he thinks that is the cleanest way to find a solution. That way they aren't trying to make a decision by pulling a laptop and trying to find something that might work or might now work. He thinks a Continuance is a more viable alternative to work out a solution.

Question: Joshua Oehler asked if Scott Hamlin was still employed with the Town of Gilbert.

Answer: Linda Edwards said he was still with the Town.

Comment: Rajnish Gupta said that Scott Hamlin was on vacation, but he said he had talked to him and he asked him if he had promised or said that the Town would do this. He said he had not promised it.

Response: Joshua Oehler said that he is aware that there are a lot of recommendations given. He said that is why he believes they should go the route of a Continuance because he isn't 100% certain that the Town hadn't already done their side of proving they had recommended this option. He said that the applicant kept going forward, but he said it doesn't make sense for a site like this without the access, so he thinks Town Staff would want to work with the applicant and he thinks the better way would be to Continue the item, instead of trying to approve a site that is not approvable at this point.

Chair Sippel said it appears they have two possible directions. He said he isn't in favor of either one of the two proposed changes that have been suggested, but he said at the end of the day, they want to get the project done. He said the applicant also wants to get the project completed.

Question: Chair Sippel asked the applicant if he would prefer a 30-day continuance or if he would prefer the process of appeal. He said that it is his hope that either one of those ways would get them to a viable option of success with that as an open drive. He asked Linda Edwards to verify that those were the only two options available to them.

Answer: Linda Edwards said that those seemed to be the most viable options. She told the Commission that she had informed them incorrectly earlier. The fee for an appeal is \$490.

Comment/Question: Joshua Oehler said that we were already one week out because this meeting is normally held on the first week. He asked if they had enough time to complete notifications in the next three weeks if they were to ask for a Continuance.

Answer: Linda Edwards said they could Continue to date certain without additional public notice.

Comment/Question: Chair Sippel said that means they would be okay continuing this to the August 2nd meeting. He further pointed that he wasn't happy with either one of the options, and he thought most of the Commission felt the same way, but the way he sees it, those are the two options in front of us. He then again asked the applicant if there were one course of action he preferred.

Answer: Grant Olds said he would want more clarification as to who could grant the waiver. He said he had heard that if this was a land-locked parcel that only had one access, the Town Traffic Engineer would have the authority to grant the waiver. He said now he is hearing that it has to be the Town Engineer that can grant the waiver. He said he is concerned as to who has the authority. He said if the authority rests with the Planning Commission, he would like to get this settled tonight and be done with it and move forward with the project.

Comment: Chair Sippel said that the person that has the authority would be the interim Town Engineer.

Comment: Attorney Nancy Davidson clarified, that based on the Standard, it is within the Gilbert Public Works and Engineering Standards on Page 92. Under 1.8 of those standards, it states that it would be the Town Engineer.

Comment: Chair Sippel pointed out that the Town Engineer happens to be on vacation, but they have an interim Town Engineer, Susanna Struble, and she can look at this in the next 10 days or so. He said that would be the appeal process. He said he believes that Staff is recommending that the applicant apply for the appeal and if Susanna Struble agrees to the change and removes the stipulation that this access point be "Fire access only" then Staff will refund the \$495 and move on with the project. The other option is that this would go through Staff looking at it again.

Response: Linda Edwards said that if this were to be continued to the August 2nd meeting, they would only come back before the Commission with the final exhibit that the Town can support. If the Town Engineer would say they can support this, then Condition Number 6 would go away because the exhibit that is in the packet today would show what the applicant wants. If the Town Engineer would only approve that the point of access must remain only a Fire access, they would have to bring the Commission a final exhibit showing it was a Fire access only. They would only bring to hearing what they could approve.

Question: Chair Sippel asked if they could override that at that time.

Answer: Linda Edwards said that if it is an Engineering Standard, they could not.

Comment: Chair Sippel clarified that it would then go to Town Council and Council would get the final say.

Response: Nancy Davidson said that because it is an Engineering Standard, it's tricky because it says "shall" so they will have to make sure they have the authority to approve that without having to amend the Code.

Question: Chair Sippel asked if she was referring to the Town Council.

Answer: Nancy Davidson answered affirmatively.

Question: Grant Olds asked if he had just heard that even the Town Council didn't have the authority to approve this.

Answer: Chair Sippel said that the use of the word "shall" is providing some angst.

Comment: Nancy Davidson said that she hadn't had time to fully research this issue. She said she could look into it further. She said because it is a Standard, they would need to determine what type of authority Council would have to amend or override something that is an engineering standard.

Question: Grant Olds asked how it is possible that if this property were landlocked, it would be acceptable for the Traffic Engineer to grant some type of variance. He said he is now being told that even Town Council can't do this.

Answer: Nancy Davidson said only the Town Engineer can grant the variance and there is a process for that. There are certain things that would have to be shown to approve that. She said being landlocked would be a pretty clear example of an undue hardship imposed by the property itself.

Chair Sippel said that he wanted to take a 5-minute break so he called for a break.

After a short break, Chair Sippel brought the meeting back to order at 8:20 p.m. He asked the Commission if there were any further questions or comments. He said that he had an idea as to the direction he would like to proceed. He expressed his disappointment that they are at the place they are at. He apologized that they were at the place they are today. He said the entire Commission is frustrated. However, he said he feels like the best solution is a Continuance to the August 2nd meeting. He said that he hopes between now and the next Planning Commission meeting, they would spend ample time working with the applicant to bring back to this Commission, an approvable site plan where access is allowed off of Mercy Road. He highly recommends that Staff spends a significant amount of time making a successful resolution to this problem with access off of Mercy Road. He also expressed to the Staff that they appreciate the work that they do and said he understands the workload, but he thinks in this case, they just need to hit the reset button on this, take three weeks and take care of it, and bring it back for approval in August. He said he would appreciate the support of the other Commissioners.

Comment: David Cavenee said he is in agreement with Chair Sippel. He said he didn't agree because they weren't necessarily going to find an engineering solution to the problem, but he said this problem is much more than just an engineering problem. He said he is an engineer and likes to work within the rules most of the time, but in this case he believes it is a little disingenuous to say that Scott Hamlin did not promise this. They saw the writing where he did promise this. He said that is why he believes they need to work it out. They have stumbled on this case and he said he realizes that people stumble, but he thinks they should step back, consider where they have taken this applicant, and help the applicant get the desired outcome for

that reason. Empirically speaking, he agrees that they have a fine entrance, but he thinks they need to look at it from another perspective. He said it was also brought up that they look at this as a major arterial, but he suggested that they might think of it as a minor arterial. He said that maybe that might make the separation distances different. He said he hadn't looked at the Code, but maybe that would be one way to look at it. He thinks they need to do the right thing and figure it out for this applicant.

Chair Sippel asked if there were any further comments. Seeing none, he called for a motion on Item 17, DR17-1016. Vice Chair Andersen made a **MOTION** to Continue DR17-1016, ARC Gilbert, to the August 2, 2017 Planning Commission Regular Meeting and have Staff work with the applicant to find an acceptable resolution to the "Fire access only" and allow access to Mercy Road; seconded by Joshua Oehler, motion passed unanimously.

Motion passed 7-0

ADMINISTRATIVE ITEMS

Administrative items are for the Commission/Board discussion and action. It is to the discretion of the majority of the Commission/Board regarding public input requests on any Administrative Item. Persons wishing to speak on an Administrative Item should complete a public comment form indicating the Item Number on which they wish to address. The Commission/Board may or may not accept public comment.

- 18.** Appoint two (2) Planning Commission members to participate in a working group to review the Use Permit Requirements for Multi-Family in a Regional Commercial zoning district.

Chair Sippel appointed Commissioner David Cavenee and Commissioner Joshua Oehler to participate in the working group to review the Use Permit Requirements for Multi-Family in a Regional Commercial zoning district.

Question: Joshua Oehler said he wanted to be a part of this group, but he was concerned with the timing of the meetings and wondered if it had been determined when the group would meet.

Answer: Planning Manager Edwards stated that because it was a small working group, they would be able to find times that work for those appointed to the group.

- 19. Planning Commission Minutes** – Consider approval of the minutes of the Study Session and Regular Meeting of June 7, 2017.

Chair Sippel asked for a motion to approve the minutes of the June 7, 2017 Study Session and Regular Meeting. A **MOTION** was made by Vice Chair Brian Andersen to approve the Planning Commission minutes of June 7, 2017, seconded by Greg Froehlich; motion passed unanimously.

Motion passed 7-0

COMMUNICATIONS

20. Report from Chairman and Members of the Commission on current events.

Chair Sippel asked if any member of the Commission had anything they wanted to share. Chair Sippel reminded everyone that school would be starting soon, so he told everyone to watch for little ones and to keep an eye out for school buses that would be back on the road.

21. Report from Council Liaison

Council Liaison Brigitte Peterson was not in attendance at tonight's meeting.

22. Report from Planning Manager on current events.

Linda Edwards thanked the Commission and stated that tonight was a great example of why a Design Review Board is important. She specifically mentioned that they had seen three projects at tonight's meeting that had made a 180-degree turnaround. She stated that the applicants are very grateful for the expertise of the Commission in guiding and helping them with their projects. She thanked them for their contributions. She said she does feel bad about the project that they just Continued and the message that was given through the process were not as exact as they should have been. She said that is a hard lesson learned for Staff and said that this did not represent a best practice that they would be proud of. She said they would take that as an unfortunate example and turn it around.

She shared about Gilbert 311 which is a free app the Town is using for citizen engagement. She said a resident or visitor to the community can quickly report via text or photo if something they see is out of the ordinary. She said it is also a way for residents to know what is going on around them and be aware of it. She said it is a good system and she is on the system as one who responds to the questions. She said that Elliot District Park is temporarily closed for repairs. She also said that the Gilbert Regional Park is beginning the design of Phase 1 starting this month. She said the design phase will take one year. She said Phase 1 will have in its first phase sports courts, tennis and sand volleyball, pickle ball, a lake of 8 acres, a playground, a splash pad and restrooms and many other amenities. She said most importantly, she wanted to thank Paula Olson for her 30 years of service where she served the public and the Planning Commission. She said they were very happy for her reaching such a milestone. She said it had been a pleasure to work with her. She stated that they are very happy to have Planner Nathan Williams back with them full time after the birth of a new baby.

Chair Sippel asked Planning Manager Edwards if she could give an update regarding the number of permits that had been pulled, and number of houses sold in Gilbert. He asked if they could receive an update of those statistics at next month's meeting.

ADJOURNMENT

With no further business before the Planning Commission Chair Sippel adjourned the Regular Meeting at 8:30 p.m.

Kristofer Sippel, Chairman

ATTEST:

Debbie Frazey, Recording Secretary